

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

NEXTGEAR CAPITAL, INC., :

: Plaintiff : CIVIL ACTION NO. 3:18-1617

v :

ANTONIO L. GUTIERREZ and
PAUL GUTIERREZ, :

(JUDGE MANNION)

Defendants :

ORDER

In accordance with the memorandum issued this same day, **IT IS
HEREBY ORDERED THAT:**

- (1) Antonio Gutierrez's motion to set aside the default entered against him, (**Doc. 20**), is **GRANTED**, and the clerk of court is directed to **VACATE** the entry of default, (**Doc. 8**), as against Antonio Gutierrez;
- (2) Antonio Gutierrez's motion to dismiss, (**Doc. 20**), NextGear's complaint, (**Doc. 1**), is **GRANTED IN PART** and **DENIED IN PART**;
- (3) Antonio Gutierrez's motion to dismiss is **GRANTED** for lack of personal jurisdiction with respect to Count IV of NextGear's complaint, (**Doc. 1**), conversion claim, and this claim is **DISMISSED**;
- (4) Antonio Gutierrez's motion to dismiss is **DENIED** with respect to

- Count II of NextGear's complaint, (**Doc. 1**), fraudulent transfer claim regarding the Poconos Property; and
- (5) Antonio Gutierrez's is directed to file his answer to Count II of NextGear's complaint, (**Doc. 1**), fraudulent transfer claim, within **14 days** of the date of this Order.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Date: April 29, 2019

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